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Attorneys for Defendant

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

REED ELSEVIER, INC., Plaintiff, v. INHERENT.COM, INC. a/k/a INHERENT, INC., Defendant.	Docket No. 258305 NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. SECTION 1441(b) [DIVERSITY]

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant INHERENT.COM, INC. a/k/a INHERENT, INC. (hereinafter referred to as "INHERENT") hereby removes to this Court the state court action described below.

EXHIBIT B

Dockets.Justia.com

1. On approximately July 18, 2005, an action was commenced in the Superior Court of New Jersey in Union County, Law Division – REED ELSEVIER, INC. (hereinafter referred to as "REED") Plaintiff vs. INHERENT.COM, INC. a/k/a INHERENT, INC., Defendant as docket number 258305. A copy of the complaint is attached hereto as Exhibit "A".

2. The first date upon which Defendant INHERENT.COM, INC. a/k/a INHERENT, INC. received a copy of said complaint was approximately July 20, 2005 when Defendant was served, by certified mail, a copy of the said complaint and a summons from the said state court. A copy of the summons is attached hereto as Exhibit "B".

3. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. Sec. 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. Sec. 1441(b) in that it is a civil action between citizens of different states, and the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs because the matter involves the disclosure of trade secret information, and also the refraining from the development of clients at the request of REED.

4. Defendant is informed and believes that plaintiff REED ELSEVIER, INC. was, and still has, its principal place of business in the State of New Jersey. Defendant INHERENT.COM, INC. a/k/a INHERENT, INC., was a corporation incorporated under the laws of the State of Oregon, and with its principal place of business in Oregon. INHERENT.COM, INC. a/k/a INHERENT, INC. is the only defendant that has been served with a summons and complaint in this case.

Dated: 8/15/05

TIGHE, COTTRELL & LOGAN

By: ______________________

G. KEVIN FASIC, ESQ.
For Defendant INHERENT.COM, INC.
a/k/a INHERENT, INC.

EXHIBIT A

RECEIVED/FILED
Superior Court of New Jersey
JUL 18 2005
CIVIL CASE MANAGEMENT
UNION COUNTY

SILLS CUMMIS EPSTEIN & GROSS P.C.
One Riverfront Plaza
Newark, New Jersey 07102
(973) 643-7000
Attorneys for Plaintiff

REED ELSEVIER INC., Plaintiff, -vs- INHERENT.COM, INC. a/k/a INHERENT, INC., Defendant.	SUPERIOR COURT OF NEW JERSEY UNION COUNTY, LAW DIVISION DOCKET NO. COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Reed Elsevier, Inc., by way of Complaint against defendant Inherent.com, Inc. a/k/a Inherent, Inc., hereby says as follows:

THE PARTIES

1. Plaintiff Reed Elsevier, Inc. ("RE") is a Massachusetts corporation having a principal place of business located at 275 Washington Street, Newton, Massachusetts. Martindale-Hubbell ("MH") is a division of RE and has a principal place of business at 121 Chanlon Road, New Providence, New Jersey, in Union County. MH's business consists of providing various products and services utilized by the legal profession.

2. Defendant Inherent.com, Inc. a/k/a Inherent, Inc. ("ICI") is a corporation having a principal place of business at 2140 SW Jefferson Street, Suite 200, Portland, Oregon. ICI's business consists of providing internet-related services (e.g., website development and hosting) for professional organizations, primarily law firms and legal professional associations.

FACTUAL BACKGROUND

3. In 2004, MH and ICI commenced discussions regarding the possibility of entering into a business relationship between the two companies.

4. After preliminary discussions, MH and ICI entered into a Non-Disclosure Agreement to facilitate the providing of information by ICI deemed material and necessary by MH in its evaluation of the contemplated transaction. The Non-Disclosure Agreement became effective on November 1, 2004, and provided for a two-year period during which its confidentiality terms remained in effect.

5. The Non-Disclosure Agreement provided certain described limitations on the use by either MH or ICI of confidential, proprietary, or trade secret information disclosed by the other in the course of the parties' discussions and their respective evaluation as to the desirability of entering into a business relationship. The Non-Disclosure Agreement provided that upon written request by either party, the other party would return all proprietary information or destroy such information and certify its destruction.

6. From November 2004 through May 2005, MH and ICI had numerous discussions regarding a potential business relationship between the companies, and ICI provided MH with certain information regarding its operations.

7. On or about May 25, 2005, MH presented ICI with a Letter of Intent, the purpose of which was to provide ICI with MH's ". . . preliminary non-binding indication of interest in acquiring the web site development, management and hosting applications and services business . . . of Inherent.com, Inc. . . . and [its] proposed next steps to move this potential transaction forward."

8. The Letter of Intent set forth a "non-binding indication" of the nature of MH's proposed transaction, which was based upon MH's "preliminary analysis" of the information provided by ICI by that date.

9. The Letter of Intent specified numerous conditions to the completion of any transaction, including but not limited to (i) the satisfactory completion "of a full commercial, financial, technical and legal due diligence" by MH, (ii) the negotiation of acceptable purchase and sale contract terms acceptable to RE, and (iii) approval by the Board of Directors of RE.

10. The Letter of Intent proposed by MH to ICI provided that ". . . this letter and the acceptance thereof is non-binding and creates no legally binding obligation on the part of the parties to conclude the proposed transaction, and no legally binding obligation to conclude the proposed transaction will be created, notwithstanding any subsequent actions or communications, written or oral, between the parties, even though they may express or imply partial or preliminary agreement, except by the execution and delivery by all parties of definitive transaction documents."

11. MH and ICI negotiated the form of the Letter of Intent proposed by MH. Among the modifications made at ICI's request was an amendment of the language to provide that the possible transaction was subject to the parties reaching mutually acceptable purchase and sale contract terms and the execution of definitive transaction documents.

12. On June 15, 2005, ICI signed the revised Letter of Intent dated June 8, 2005. On June 17, 2005, certain ICI shareholders signed the Letter of Intent, as required by MH.

13. Following the execution of the Letter of Intent by ICI, MH undertook due diligence necessary to evaluate the feasibility and potential terms of a business transaction with ICI.

14. While performing due diligence, MH received information which caused it to conclude that it did not wish to acquire ICI or any of its assets, or to enter into any business transaction with ICI. Accordingly, on June 28, 2005, eleven days after the fully-executed Letter of Intent was returned to MH, MH advised ICI that it had no interest in moving forward with ICI.

15. Following MH's decision to terminate the discussions between the parties, MH returned to ICI whatever confidential information, as defined by the Non-Disclosure Agreement, was then in MH's possession. MH also provided certifications to ICI stating that the signatories, who were involved in the due diligence process, no longer possessed confidential information regarding ICI.

COUNT ONE

16. Plaintiff MH repeats and realleges the allegations contained in paragraphs 1 through 15 above as if fully set forth herein.

17. On July 11 and 13, 2005, MH received correspondence from ICI's counsel alleging that MH had committed a breach of its "contract" with ICI and threatening the filing of a lawsuit by ICI against MH.

18. ICI has taken the position that MH entered into "a contract to purchase ICI's assets," and that MH's refusal to do so "constitutes a breach of contract."

19. ICI has asserted that MH's "terminat[ion] of the contract [was] without merit and without interest in allowing ICI to remedy any concerns or problems."

20. RE denies that it is obligated, through the actions of its MH division, to purchase any of ICI's assets or to otherwise enter into a business arrangement of any sort with ICI.

21. RE asserts that it is not in breach of any agreement between MH and ICI.

WHEREFORE, plaintiff Reed Elsevier requests that the Court: (a) construe the terms of the Letter of Intent and any other supposed agreement alleged by defendant Inherent.com, Inc. a/k/a Inherent, Inc. to constitute a binding contractual agreement, and issue a judgment declaring that (i) Martindale-Hubbell did not breach any obligation to ICI in connection with the parties discussions concerning a potential business transaction as contemplated in the Letter of Intent signed by the parties, and (ii) Reed Elsevier has no liability to ICI for terminating its preliminary interest in pursuing such a transaction; (b) award costs of suit to RE; and (c) grant such other relief as is equitable and just.

SILLS CUMMIS EPSTEIN & GROSS P.C.
One Riverfront Plaza
Newark, New Jersey 07102
(973) 643-7000
Attorneys for Plaintiff

By: ______________________
MARK E. DUCKSTEIN

Dated: July 18, 2005

RULE 4:5-1(b)(2) CERTIFICATION

I hereby certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated by plaintiff Reed Elsevier, Inc. I further certify that plaintiff Reed Elsevier, Inc. is unaware of any non-party who should be joined in this action pursuant to R. 4:28 or who is subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any arty on the basis of the same transactional facts.

MARK E. DUCKSTEIN

Dated: July 18, 2005

#929912 v1

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial Law Division – Civil Part pleadings (not motions) under Rule 4:5-1.
Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE:	CK CG CA
CHG/CK NO.	
AMOUNT:	
OVERPAYMENT:	
BATCH NUMBER:	

ATTORNEY/PRO SE NAME: Mark E. Duckstein, Esq.	TELEPHONE NUMBER: (973) 643-5391	COUNTY OF VENUE: Union
FIRM NAME (if applicable): Sills Cummis Epstein & Gross P.C.		DOCKET NUMBER (When available)
OFFICE ADDRESS: One Riverfront Plaza, Newark, New Jersey 07102		DOCUMENT TYPE: Complaint for Declaratory Judgment
		JURY DEMAND: ☐ YES ☑ NO
NAME OF PARTY (e.g., John Doe, Plaintiff): Reed Elsevier Inc., Plaintiff	CAPTION: Reed Elsevier Inc. v. Inherent.com, Inc. a/k/a Inherent, Inc.	
CASE TYPE NUMBER (See reverse side for listing): 599	IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☑ NO. IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? ☐ YES ☑ NO	IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ YES ☑ NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN: ☐ NONE ☑ UNKNOWN	

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

A. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ YES ☑ NO
IF YES, IS THAT RELATIONSHIP: ☐ EMPLOYER-EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ______ ☐ FAMILIAL ☐ BUSINESS

B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☐ YES ☑ NO

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:

DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? ☐ YES ☑ NO — IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION: ______

WILL AN INTERPRETER BE NEEDED? ☐ YES ☑ NO — IF YES, FOR WHAT LANGUAGE: ______

ATTORNEY SIGNATURE: [signature]

Revised effective 4/1/05

SIDE 2

CIVIL CASE INFORMATION STATEMENT (CIS).

Use for initial pleadings (not motions) under *Rule* 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I — 150 days' discovery
- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)

Track II — 300 days' discovery
- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 602 ASSAULT AND BATTERY
- 603 AUTO NEGLIGENCE – PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 699 TORT – OTHER

Track III — 450 days' discovery
- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV — Active Case Management by Individual Judge / 450 days' discovery
- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Mass Tort (Track IV)
- 240 REDUX/PHEN-FEN (formerly "DIET DRUG")
- 248 CIBA GEIGY
- 264 PPA
- 601 ASBESTOS
- 619 VIOXX

999 OTHER (Briefly describe nature of action) ______________________

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

☐ Verbal Threshold ☐ Putative Class Action ☐ Title 59

Revised effective 4/1/05

EXHIBIT B

SILLS CUMMIS EPSTEIN & GROSS P.C.
One Riverfront Plaza
Newark, New Jersey 07102-5400
(973) 643-7000
Attorneys for Plaintiff

REED ELSEVIER INC., Plaintiff, vs. INHERENT.COM, INC. a/k/a INHERENT, INC., Defendant.	SUPERIOR COURT OF NEW JERSEY UNION COUNTY, LAW DIVISION DOCKET NO.: L-002583-05 (Civil Action) **SUMMONS**

From: THE STATE OF NEW JERSEY
To: Inherent.Com, Inc. a/k/a Inherent, Inc.

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The Complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, N.J. 08625. A filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of $135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion with 35 days, the court may enter judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

/s/ Donald Phelan
Donald F. Phelan
Clerk of the Superior Court

Dated: July 20, 2005

Name of Defendant to be Served: Inherent.Com, Inc. a/k/a Inherent, Inc.

Address of the Defendant to be Served: 2140 SW Jefferson Street, Suite 200, Portland, Oregon

#931138 v1

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Attorneys for Defendant

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

REED ELSEVIER, INC., Plaintiff, v. INHERENT.COM, INC. a/k/a INHERENT, INC., Defendant.	Docket No. 258305 NOTICE TO ADVERSE PARTY OF REMOVAL OF ACTION UNDER 28 U.S.C. SECTION 1441(b) [DIVERSITY]

TO THE PLAINTIFF REED ELSEVIER, INC. AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT a Notice of Removal of this action was filed in the United States District Court for the District of New Jersey on August 15, 2005.

A copy of the said Notice of Removal is attached to this notice and is served and filed herewith.

///

Dated: 8/15/05

TIGHE, COTTRELL & LOGAN

By: ______________________

G. KEVIN FASIC, ESQ.
For Defendant INHERENT.COM, INC.
a/k/a INHERENT, INC.

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Attorneys for Defendant

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

REED ELSEVIER, INC., Plaintiff, v. INHERENT.COM, INC. a/k/a INHERENT, INC., Defendant.	Docket No. 258305 DEMAND FOR JURY TRIAL

Defendant INHERENT.COM a/k/a INHERENT, INC. hereby demands trial by jury in this action.

Dated: 8/15/05

By: [signature]
G. KEVIN FASIC, ESQ.
For Defendant INHERENT.COM, INC.
a/k/a INHERENT, INC.